

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**GLORIA MACHADO, AS NEXT
FRIEND OF ANTHONY T. MACHADO
and MANLIO AMAYA,
INDIVIDUALLY, AS PERSONAL
REPRESENTATIVE OF THE ESTATE
OF IVAN A. AMAYA, DECEASED,**

Plaintiffs,

v.

Civil Action No. 3:18-CV-00282-L

**XPEDITE LOGISTICS, LLC, CRETE
CARRIER CORPORATION D/B/A
SHAFFER TRUCKING, RONALD
ANTHONY BEASLEY, and JAMES
ELY JR.,**

Defendants.

ORDER

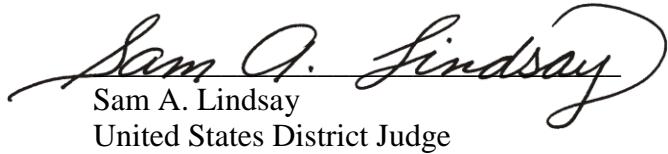
Before the court is Defendant Crete Carrier and James Ely, Jr's (collectively "Defendants") Motion to Reinstate Case, Reconsider Remand, and for Extension of Time to Respond to Provide Information on Citizenship of Parties (Doc. 30), filed January 25, 2019. On January 9, 2019, the court notified the parties that it discovered deficiencies in Defendant Crete Carrier's Notice of Removal and allowed it until January 23, 2019, to file an amended notice of removal. The court advised Crete Carrier that failure to file an amended notice of removal by the deadline would result in the *sua sponte* remand of the action to state court for lack of subject matter jurisdiction. Crete Carrier failed to file an amended notice of removal by January 23, 2019, and, accordingly, the court entered an order on January 24, 2019, determining that it was unable to determine whether diversity jurisdiction exists. The court remanded the action to the 14th Judicial District Court of Dallas County, Texas, from which it was removed. Doc. 29.

On January 25, 2019, Defendants filed its Motion to Reinstate Case, Reconsider Remand, and for Extension of Time to Respond to Provide Information on Citizenship of Parties. Defendants argue that they have “worked diligently to provide to the Court the information that was requested on the residency of the citizenship of the parties to this case” because they emailed counsel for Xpedite Logistics, LLC “on the same date that the Court entered the memorandum and order” to request the needed information. Doc. 30 at 1-2. Defendants contend that “[a]s of the time of this motion this information has not been obtained,” but they have followed up “on more than one occasion” and “believe that this information should be provided shortly.” Doc. 30 at 1-2. Defendants provide e-mail correspondence between counsel for Crete Carrier and Xpedite Logistics, LLC that took place between January 9, 2019, and January 11, 2019, regarding the citizenship facts necessary for a proper amended notice of removal. Defendants ask for one week to obtain the information.

Defendants concede that “[a]s of the time of this motion this information has not been obtained.” Doc. 30 at 2. Even if Defendants were to have obtained the necessary facts regarding diversity of citizenship, the court does not believe they have exercised proper diligence since the court advised the parties of the deficiencies in the Notice of Removal. The court advised the parties on January 9, 2019, of the deficiencies in the Notice of Removal and gave the parties until January 23, 2019, to file an amended notice. Defendants contend that they have worked diligently to obtain the missing information, but the e-mail correspondence attached to their motion indicates that such efforts lasted until January 11, 2019. Defendants had until January 23, 2019, to ask the court for a continuance and explain that they were awaiting information from Xpedite Logistics, LLC, pursuant to these e-mail requests. Defendants’ motion provides no explanation as to why they did not make this request prior to the expiration of the January 23, 2019 deadline. Accordingly, as Defendants have not exercised due diligence in obtaining the necessary facts to establish the

court's jurisdiction or in requesting an extension prior to the deadline set by the court, the Motion to Reinstate Case, Reconsider Remand, and for Extension of Time to Respond to Provide Information on Citizenship of Parties (Doc. 30) is **denied**.

It is so ordered this 28th day of January, 2019.



Sam A. Lindsay
United States District Judge